

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUMMARY SUIT NO.2706 OF 2005

M/s. Crystal Traders BVBA ..Plaintiff.

Vs.

M/s. Sambhav Diamonds ..Defendant.

....

Mr. O.S. Kutty with Mrs. Sanika Deshpande for the Plaintiff.

None for the Defendant.

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CORAM: DR. D.Y. CHANDRACHUD, J.

23rd April, 2007.

P.C. :

1. The Suit under Order 37 of the Code of Civil Procedure, 1908 has been instituted in order to recover an amount of Rs.88,21,364/-. The Suit is based on a Bill of Exchange dated 24th June, 2002 drawn by the Plaintiff and accepted by the Defendant. At the stage of the Summons for Judgment a conditional order was passed requiring the Defendant to deposit a sum of Rs.50 lacs within twelve weeks, subject to which leave to defend the suit was granted. The order of the Learned Single Judge was carried in appeal. The appeal was dismissed by a Division Bench on 21st August, 2006.

2. The Plaintiff has produced on the record a non-deposit certificate dated 18th November, 2006 issued by the Master and Assistant Prothonotary. The condition subject to which leave to defend was granted has not been complied with.

3. A compilation of the original documents has been filed on the basis of which the claim is established. Even otherwise, the Defendant having failed to comply with the condition subject to which leave to defend was granted, the Plaintiff would be entitled to a decree as prayed. The suit is accordingly decreed in terms of prayer clause (a). The Plaintiff would also be entitled to interest on the principal amount of Rs.88,21,364/- at the rate of 18% per annum from the date of the institution of the suit until the date of the decree and at the same rate from the date of the decree until payment or realization.

Drawing up of the decree is expedited.

Refund of Court Fess, if any, as per rules.